

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22008
Docket Number TD-22001

John P. Mead, Referee

PARTIES TO DISPUTE: (American Train Dispatchers Association
(
(Seaboard Coast Line Railroad Company

STATEMENT OF CLAIM: Claim of the American Train Dispatchers Association that:

(a) The Seaboard Coast Line Railroad Company (hereinafter referred to as "the Carrier") violated the existing Schedule Agreement in effect between the parties, Articles IX(a) and IX(b) thereof in particular, by its action on July 1, 1976 in assessing discipline by placing a letter of reprimand in the employment record of train dispatcher W. L. Ford. The record of the formal investigation held on June 16, 1976 failed to establish that Claimant violated Carrier's Operating Rules as alleged, thus Carrier's action in imposing discipline without evidence of wrongdoing or rule violation was arbitrarily, capricious, and in abuse of managerial discretion.

(b) The Carrier shall now be required to clear Claimant's employment record of the reprimand referred to in paragraph (a) above.

OPINION OF BOARD: Train Dispatcher Ford was reprimanded for failing to detect an error in a train order as repeated by one of the two operators to whom he had issued it.

The only evidence in the record supporting the Carrier's action is the testimony of one of the operators, which testimony is in conflict with the claimant's, and with the testimony of the second operator. Claimant's testimony that the first operator correctly repeated the order to him is corroborated by the second operator, who heard the same conversation. The statement of the first operator is uncorroborated by other testimony or other evidence, and is insufficient to overcome the preponderance of evidence that claimant performed his job properly.

3 Carrier contends that a reprimand is designed to serve as a guide for future conduct, and does not require as much supporting evidence as more severe disciplinary action. 7

4 This Board does not accept such contention as valid. The reprimand in question is based upon alleged failure to comply with operating rules, and the Carrier has failed to prove by clear and convincing evidence that a violation occurred. Therefore, (there is no basis for any disciplinary action--even a reprimand. 21

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

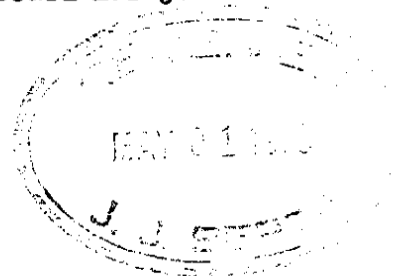
That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated.

A W A R D

Claim sustained.



NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 14th day of April 1978.